

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for August 4, 2004 PLANNING COMMISSION MEETING

This is a revised staff report.

P.A.S.: Street and Alley Vacation #03023

PROPOSAL: Vacate the north 10' of "Q" Street right-of-way adjacent to Lots 7, 8, and 9, Block 30, Original Plat of Lincoln.

LOCATION: 8th and "Q" Streets.

LAND AREA: 1,500 square feet, more or less.

CONCLUSION: Vacating this portion of right-of-way does not conform to the Comprehensive Plan. The vacation of this property is contrary to the Comprehensive Plan and city policy with regard to the Haymarket area. The proposed uses could likely be allowed by license to use, rather than vacation of, public right-of-way.

<u>RECOMMENDATION:</u>	Does Not Conform to the Comprehensive Plan
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GENERAL INFORMATION:

LEGAL DESCRIPTION: The north 10 feet of "Q" Street right-of-way adjacent to Lots 7, 8, and 9, Block 30, Original Lincoln, located in the SE 1/4 of Section 23 T10N R6E, Lancaster County, Nebraska.

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-4 Lincoln Center Business District
South:	Commercial	B-4 Lincoln Center Business District
East:	Commercial	B-4 Lincoln Center Business District
West:	Commercial	B-4 Lincoln Center Business District

COMPREHENSIVE PLAN SPECIFICATIONS:

The Land Use Plan shows the area around this vacation as Commercial. (F 25)

TRAFFIC ANALYSIS: There are several on-street parking stalls along "Q" Street adjacent to this property. The Haymarket parking garage is located immediately adjacent to the east, and a public surface parking lot is located approximately 1 block west. 8th and "Q" Streets are designated as Local streets both now and in the future. (E 49, F 103) However, because they are within the Haymarket, traffic is often steady and slow moving on these streets.

Local Streets: These are composed of all lower order facilities that essentially serve as a conduit between abutting properties and higher order streets. Local streets provide the lowest level of mobility and generally exhibit the lowest traffic volumes. (F 105)

AESTHETIC CONSIDERATIONS: Petitioner has not submitted a design layout for the proposed use of the right-of-way. It appears as though the proposed use would be similar to a sidewalk café situation, although the proposed use would be temporary rather than permanent.

ALTERNATIVE USES: The proposed occasional use of the area could likely be allowed through a permit to use the public right-of-way.

ANALYSIS:

1. This is a petition to vacate the north 10' of “Q” Street right-of-way adjacent to a business for the purpose of allowing outdoor display of large retail items, special events, and company demonstrations. A portion of the area would remain as-is with no changes in appearance or function.
2. Several visits to this site revealed vehicles parked within the public right-of-way in front of this business. This particular area is not paved, but has a rock surface; the remainder of the right-of-way is paved sidewalk, as shown in the attached photographs. The attached Lancaster County Assessor website photograph of this property shows two vehicles parked in the right-of-way. The attached aerial photograph of this property shows one vehicle parked in the right-of-way.
3. According to the Police Department, employees of this business have been parking in this location for years, and the property owner has asserted this area is his private property. However, maps of City right-of-way indicate the entire area up to the building face is public right-of-way. The Police Department has issued citations to motorists for parking in this area.
4. In the time since the previous public hearing on this petition, Petitioner has revised his plans for the area and no longer proposes to use it for parking, but rather as space to display retail merchandise or for special events. However, if the right-of-way were vacated and sold, there should be a restriction placed on the property prohibiting its use for parking.
5. The Public Works and Utilities and Urban Development Departments oppose this request because the entire area between the building and street is paved public sidewalk, with the exception of this area. Existing conditions already present conflicts between vehicles and pedestrians because vehicles must travel on the sidewalk to park here. Future use for display purposes could continue to impede pedestrian movement, and may create safety hazards depending upon the nature of the items displayed. However, a permit to use the right-of-way may provide the

flexibility the Petitioner needs for display purposes, and the ability for the City to limit the manner in which the right-of-way is used. Also, a license may be revoked should the area be needed for a public purpose.

6. The Historic Preservation Committee discussed the original petition at their February 19, 2004 meeting. They voted 4-0 to recommend this petition be denied, citing the availability of a permit for the handicap ramp, and the importance of the area between curbs and building faces to pedestrians in this area. A memo from Historic Preservation Planner Ed Zimmer is attached briefly describing their discussion. The Historic Preservation Commission has not reconsidered this petition in light of the revised proposed use.
7. If this vacation is approved, several City departments are concerned other businesses in the Downtown area may seek similar vacations of irregular portions of right-of-way for private use. Setting a precedent in this case may result in additional conflicts between property users and pedestrians throughout Downtown.
8. Alltel and LES either have facilities within or near this area. If this area is vacated, easements should be retained for existing and future facilities, as well as public access.
9. Should the Planning Commission choose to find this request conforms to the Comprehensive Plan, Planning Staff recommends the following conditions.

BEFORE THE VACATION REQUEST IS SCHEDULED ON THE CITY COUNCIL AGENDA THE FOLLOWING MUST BE COMPLETED:

- 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code must be met.
- 1.2 Provide an easement over the entire vacated area for existing and future public facilities.
- 1.3 Restrict the future use of the property to prohibit parking within the entire vacated area.

Prepared by:

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Date: July 26, 2004

Street and Alley Vacation #03023
8th and "Q" Streets

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Petitioner, Joyce and Henkle Company
Owner, W. E. Henkle
and 7901 Northshore Drive
Contact: Lincoln, NE 68516
488.0685

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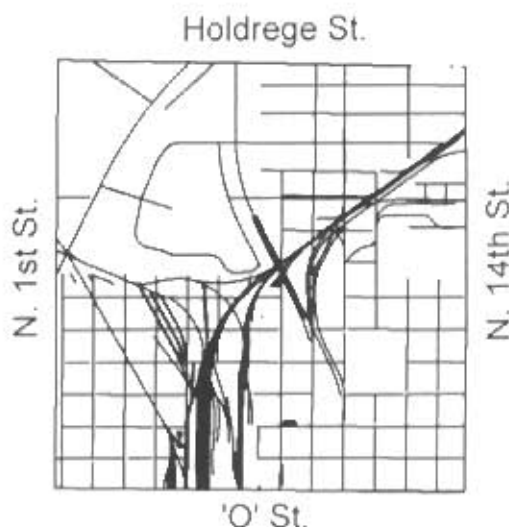
2002 aerial

Street & Alley Vacation #03023 N. 8th & Q Street

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 23 T10N R6E



Proposal for Vacation Request #03023

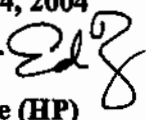
Legal Description: The north 10 feet of "Q" Street right-of-way adjacent to Lots 7, 8, and 9, block 30, Original Lincoln, located in the SE ¼ of Section 23 T10N R6E, Lancaster County, Nebraska

The Tool House, Inc. in conjunction with Joyce and Henkle Building Company propose City vacation of above property for the following purposes.

1. In accordance with City Planning requirements and regulations set forth by the Historic Preservation Commission, the area directly in front of the East portion of the Henkle & Joyce Building, currently occupied by The Tool House, Inc. would be used for the purpose of displaying equipment that is too large to display in the window of said building. This area could be "chained" off, in order to protect the product display, maintain the integrity of the historical appearance, and prevent pedestrian traffic issues. We propose that the protective boundary (i.e. chain and post, fence, etc.) would be removable at any time. The Tool House would like to work in conjunction with the Historic Preservation Commission and members of the Historic Haymarket Association in order to comply with any and all requirements in maintaining the integrity of the property and its aesthetic value.
2. The 10' area in front of the current loading dock would be accessible to The Tool House during special events and company demonstrations, not interfering with pedestrian traffic or vehicle access to the loading dock. We propose no permanent change to the appearance of this area.
3. The 10' area in front of the West portion of the Henkle & Joyce building would remain as-is, with the understanding that The Tool House currently occupies the area below the sidewalk. Joyce & Henkle Building Co. has invested approx. \$5000 to maintain the safety and integrity of the sidewalk itself.

PLANNING DEPARTMENT MEMO

TO: **Greg Czaplewski**
Section: **Development Review**
CC: **file**

DATE: **February 24, 2004**
FROM: **Ed Zimmer** 
Section: **Long Range (HP)**
RE: **Historic Preservation
Commission recommendation
on petition to vacate Right-of-
Way, North 8th and Q Streets**

On February 19, 2004, the Historic Preservation Commission held a regularly scheduled meeting. Among the items for hearing and action was a petition by Bill Henkle to vacate a 10 foot strip of ROW on the north side of Q Street east of N. 8th Street adjacent to "The Tool House."

Members present were Tim Francis, Bruce Helwig, Bob Ripley, and Terry Young. They reviewed the petition and discussed the request to vacate the ROW for parking and building access ramps/stairs. Members observed that ROW is commonly used in Haymarket for building access ramps under the "use of area above or below ROW" permitting procedures and a vacation was not necessary for that purpose. Comments were made that the ROW area between curbs and building faces is important for pedestrians, especially in Haymarket.

A motion was made and approved 4-0 to recommend that the petition to vacate the ROW be denied.

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